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600 CONGRESS AVENUE, SUITE 2400  
AUSTIN, TEXAS 78701-3271  
WWW.FULBRIGHT.COM

SHIGHLANDER@FULBRIGHT.COM  
PARTNER  
DIRECT DIAL: (512) 536-3184

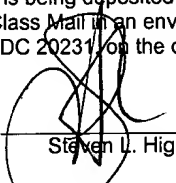
TELEPHONE: (512) 474-5201  
FACSIMILE: (512) 536-4598

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<u>October 28, 2002</u> Date	 Steven L. Highlander

Commissioner for Patents  
Washington, DC 20231

Re: *U.S. Serial No. 09/908,988 Entitled: "METHODS AND COMPOSITIONS FOR STABILIZING MICROTUBULES AND INTERMEDIATE FILAMENTS IN STRIATED MUSCLE CELLS" by Eric N. Olson*  
Matter No. 10106332/MYOG:028US

Enclosed for filing in the above-referenced patent application is:

1. Response to Restriction Requirement Dated August 29, 2002;
2. Request for Extension of Time to Respond to Office Action Dated August 29, 2002; and
3. A return postcard to acknowledge receipt of these materials. Please date stamp and mail this postcard.

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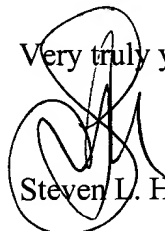
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If the check is inadvertently omitted, or the amount is insufficient, or should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, or should an overpayment be included herein, the Commissioner is authorized to deduct or credit said fees from or to Fulbright & Jaworski L.L.P. Account No.: 50-1212/10106332/SLH.

Very truly yours,



Steven L. Highlander

SLH/cpj

Encl: As noted



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October 28, 2002  
Date

  
Steven L. Highlander

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Eric N. Olson

Jeffrey A. Spencer

Serial No.: 09/908,988

Filed: July 18, 2001

For: METHODS AND COMPOSITIONS FOR  
STABILIZING MICROTUBULES AND  
INTERMEDIATE FILAMENTS IN  
STRIATED MUSCLE CELLS

Group Art Unit: 1632

Examiner: William W. Moore

Atty. Dkt. No.: MYOG:028US

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RESPONSE TO RESTRICTION REQUIREMENT DATED AUGUST 29, 2002

Commissioner for Patents  
Washington, D.C. 20231

Commissioner:

This paper is submitted in response to the Restriction Requirement dated August 29, 2002 for which the date for response was September 29, 2002.

A request for a one-month extension of time to respond is included herewith along with the required fee. This one-month extension will bring the due date to October 29, 2002, which is within the six-month statutory period. Should such request or fee be deficient or absent, consider this paragraph such a request and authorization to withdraw the appropriate fee under 37 C.F.R.

§§ 1.16 to 1.21 from Fulbright & Jaworski L.L.P. Account No.: 50-1212/10106332/SLH.

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In response to the restriction requirement which the Examiner imposed, The examiner has restricted the current invention to one of 45 classes of claims. Applicants traverse this restriction by provisionally electing to pursue Group I, claims 1-6 and 8-18, drawn to MURF-1, *i.e.*, the Group I claims.

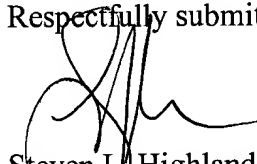
The examiner has not provided an explanation for why group VII cannot be elected with Group I, therefore applicants act to rejoin these two groups and requests that Examiner allow prosecution of Groups I and VII directed towards MURF-1.

The applicants further act to rejoin Group IV directed to MURF-1. The examiner has argued that Group IV is unrelated to Group I and Group VII because the different inventions are not disclosed as capable to use together and have different modes of operation, functions, and effects (MPEP 806.04). Group IV, which is limited to Claim 7 alone, is drawn to an expression construct for an anti-sense nucleic acid encoded by the DNA segment of Claim 5. While it is true that an anti-sense construct will have a different final product than its sense counterparts, it is also true that such an expression construct will "define the same essential characteristics" (MPEP 806.03) as the expression construct for the sense molecules, it will be used in the same manner, it is capable of being used with the sense constructs and it will require no more additional burden on the examiner in searching the art because the DNA sequence used for the anti-sense construct is the same as used in the sense constructs. Furthermore, Applicants direct Examiner to the discussion in the specification on pages 29 and 30 displaying not only potential use of anti-sense technology but how it can be used in conjunction with other DNA and RNA of the invention to aid in generating further constructs for the invention, a mode clearly contemplated by the inventors and seemingly practicable with the other previously elected groups of claims. Lastly, Applicants refer Examiner to MPEP 808.02 which requires that for

restriction, Examiner must show by appropriate explanation one of the following: (1) there is a separation classification of the species; (2) there is a separate status in the art when the subjects are classified together; or (3) there is a different field of search for the subjects. Applicants contend that none of these three requirements is met for the requested grouping and therefore request that Group IV be prosecuted with Groups I and VII.

The Examiner is invited to contact the undersigned attorney at (512) 536-3184 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



Steven L. Highlander  
Reg. No. 37,642  
Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P.  
600 Congress Avenue, Suite 2400  
Austin, Texas 78701  
(512) 536-3184

Date: October 28, 2002